a vast number of men. The suspension of the Act by the Secretary has stopped much of such employment, thus adding to the unemployment situation not only in Utah, but in other States.

Natural Resources Available to Utah.

As a result of operations conducted under the Leasing Act and oil and gas permits heretofore issued thereunder, large quantities of natural gas have been discovered on public lands in states adjacent to Utah, with the result that enormous expenditures of money have been made in the construction of pipe lines, transporting a part of this natural gas for use in Salt Lake City, Ogden and other cities in Utah. This has not only resulted in great benefit to the residents of those cities, but has provided employment and created within the state tangible property subject to tax.

The residents of these cities are vitally interested in seeing that this natural resource is continually made available for their use and the supply maintained for future use.

The quantity of natural gas in a given field can not be determined with entire accuracy, for which reason it is necessary for operators to build up a reserve supply of natural gas to meet the needs of the cities served by their pipe lines. This can only be done by developing natural gas fields prior to the time they are actually needed to supply the demand.

Under the policy of the Secretary of the Interior, operations on the public land to develop further reserve supply of natural gas are precluded, with resulting injuries to Utah by reason of the loss of revenue from taxation and the possibility that the residents of Utah will be deprived of the advantages accruing to them from the use of natural gas.

ARGUMENT.

The Intent of Congress in Passing the Leasing Act.

In Smyth v. Fiske, 23 Wall. 380, it is said:

> "Where doubt exists as to the meaning of a statute, the title may be looked to for aid in its construction. The pre-existing law, and the reason and purpose of the new enactment are also considerations of great weight."

The title says it is to "promote" the mining of oil and gas, etc. What was said in the reports to and in the debates in Congress? Senator Smoot, the author of the Bill, said (Cong. Rec. Aug. 21, 1919, Vol. 58, Pg. 4, Pgs. 4111, 4112, 4113, 4114):

> "There are hundreds of millions of acres of the public domain withdrawn from entry of all kinds, and through those withdrawals new development of the natural resources in the western states has practically ceased, and something must be done to change present conditions * * * If we are to develop the public lands of the West, and if we are to begin the exploration and the discovery of these minerals so necessary for the prosperity of our country, legislation must be had, and had at an early date."
>
> "I am in close touch, not only with the men producing oil today, but I have been in close touch with the men who desire to go upon the public domain and prospect for oil and take their chances in discovering it; but all known oil lands have been tied up by withdrawals for many years past and prospecting upon public lands has been limited, indeed. * * * the best thing to do is to try a leasing system, and the best plan is to prepare a bill along the line that will best meet

the situation; and that is what I have tried to do." * * * "The time has come, in the opinion of the committee on Public Lands, that legislation must be passed in order that these great undeveloped resources of our country shall be made use of by the American people."

"* * * The amendment that has been made to the bill simply states that: 'The Secretary of the Interior shall have the right to offer for sale for periods of not exceeding five years'" * * * *Mr. Kendrick*: "Does the Senator from Utah not see in that amendment a weakening of the mandatory power to sell royalty oil?" * * * "Would the Senator not accept this as a substitute for the amendment already adopted: 'The Secretary of the Interior is authorized to sell for periods of not more than five years." * * * Mr. Smoot: "Under the amendment suggested by the Senator from Wyoming (Mr. Kendrick), the Secretary will be compelled to sell the oil."

The House Report (66th Congress, 1st Session No. 398) said:

"Your committee believes that the present draft represents an improvement on all previous bills, and that if enacted into law will promote the prospecting and development of the mineral deposits in the public lands with due protection to the public interest."

As a ground for the granting of writ of certiorari, as set out in Rule 38, paragraph 5 (c) of the Rules of this court, the State of Utah says that the Court of Appeals has decided a question of general importance relating to the construction of the Leasing Act of February 25, 1920, which has not been, but should be, settled by this court.

CONCLUSION.

Other questions involved in the instant litigation are discussed at length in the petition for writ of certiorari and supporting brief and briefs amici curiae, heretofore filed by the States of Colorado, Wyoming, New Mexico and Montana. I hereby adopt the allegations contained in said petition for the writ, the arguments made in the supporting brief and briefs amici curiae referred to hereinabove. The legal questions involved in this controversy have been considered by five judges, three of whom have agreed with petitioner's view of the law. Justices Siddons and Bailey of the Supreme Court of the District of Columbia and Justice Van Orsdel in a dissenting opinion in the Court of Appeals of the District of Columbia have supported the petitioner's view of the law of the case. Because of the disagreement between the Courts considering the law involved, the unsatisfactory effect of the decision of the majority opinion of the Court of Appeals upon the interest of the State of Utah, it is urged that this Honorable Court direct that writ of certiorari be issued out of and under the seal thereof, directed to the Court of Appeals of the District of Columbia, commanding that Court to certify and send to this court for its review and determination on a day certain to be therein named, full and complete transcript of record and all proceedings in the case numbered and entitled on its docket No. 5247, Ray Lyman Wilbur, Secretary of the Interior, Appellant, vs. United States of America ex Relatione Ethel M. McLennan, Appellee; that said judgment of the Court of Appeals of the District of Columbia be reversed by this Honorable Court and that Petitioner may have such other and further relief

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CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1930.

No. 618.

THE UNITED STATES OF AMERICA EX RELATIONE ETHEL M. McLENNAN, *Petitioner*,

vs.

RAY LYMAN WILBUR, SECRETARY OF THE INTERIOR, *Respondent*.

MOTION OF the Attorney General of the State of Montana, for leave to file brief as amicus curiae, and brief of amicus curiae.

L. A. FOOT,
Attorney General of the State of Montana, as amicus curiae.
Helena, Montana.

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